

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
KANSAS CITY DIVISION**

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )  
                               ) 4:17-CR-248-BP  
v.                            )  
                              )  
**BARRETT PRELOGAR**      )  
                              )  
Defendant.                 )

**DEFENDANT PRELOGAR'S NOTICE OF VOIR DIRE TOPICS AND QUESTIONS**

Defendant Barrett Prelogar (“Prelogar”), by and through his undersigned counsel and pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure and this Court’s Order, respectfully provides notice of topics and questions the defense may propound to the jury during voir dire.

Duty as Jurors

1. In federal court, each member of the jury is charged with the duty of determining whether the Government proved, or failed to prove, the defendant guilty beyond a reasonable doubt. Does any member of the panel have any problem with this duty?
2. The members of this panel selected as members of the jury in the case today will be the judges of the facts and must accept the law as the Court explains it in its jury instructions. Is there any member of the panel who could not accept this duty?
3. This is a criminal case. In our system of justice, the burden of proof is on the Government to prove the allegations beyond a reasonable doubt. The defendant is presumed innocent unless or until the Government meets its burden. In the United States, no person is ever required to prove his innocence; the Government is required to prove his guilt—and to do

so beyond a reasonable doubt. Is there anybody who does not believe in these ideals? Is there anybody who will not hold the Government to its burden of proof?

4. Has anybody here ever been a juror in a criminal case before? If so, (a) what kind of criminal case? (b) Was the jury able to reach a verdict? (c) Were you the foreperson?
5. Has anybody here ever served on a grand jury? Does everybody understand that the standard to obtain an indictment is not proof beyond a reasonable doubt?

Knowledge of Persons and Parties Involved in the Case

6. Do you know anyone in this courtroom or who works in the courthouse? Who? Would that relationship or acquaintance influence your judgment in this case?
7. Has anyone been in this courthouse before? For what?
8. Have you, a family member, or a close friend ever been employed by the U.S. Department of Justice, the IRS, the Department of Justice's Tax Division, or the U.S. Attorney's Office for the Western District of Missouri?
9. This case was investigated by the IRS, first by IRS Special Agent Joseph Schmidt and subsequently by IRS Special Agent Alex Churchman. Does any member of the panel know either of these special agents?
10. IRS Revenue Officer Aaron Howard played a role in this matter. Does any member of the panel know Revenue Officer Howard?
11. The defendant is Barrett Prelogar. His nickname is "Bear." Does anybody know Mr. Prelogar?
12. Mr. Prelogar is represented by Justin Gelfand, Sara Neill, and Sandy Boxerman. Mr. Gelfand is a partner with the law firm Margulis Gelfand and Ms. Neill and Mr. Boxerman are shareholders with the law firm Capes Sokol. Has anybody had any dealings with these attorneys or their law firms?

13. Has any member of the panel, a family member, or a close friend ever been employed by the United States Government? If so, who and how?
14. Has anybody seen, heard, or read anything about this case? If so, what have you seen, heard or read? (At sidebar so as not to prejudice other members of the panel.) Have you formed any opinions about this case based on what you saw, heard, or read?
15. Has anybody discussed any aspect of this case with anybody who claimed to have some knowledge about what may have happened? If so, what have you heard (at sidebar) and have you formed some opinion based on what this person told you?
16. Does anybody know any other member of the jury panel? If so, who are you acquainted with, and how do you know that person? Would that relationship or acquaintance influence your judgment in this case?
17. Does anybody know any of the following people who may testify in this trial (Witness list to be read)?

Victims of Crime

18. Have any of you ever been victims of crimes or have you had a relative or close friend who was the victim of a crime? If so:
  1. Was anyone apprehended as a result of that crime?
  2. Did you testify in that case?
  3. Were you satisfied with the outcome of that case? (Why or why not?)
  4. Did you feel justice was done? (Why or why not?)
  5. Is there anything about that experience that you believe could influence your judgment in this case?

Witnesses

19. Have any of you ever been witnesses in a trial? If so:

1. Was it a criminal or civil trial?
2. What kind of case was it?
3. Was there anything about that experience that you found unpleasant?
4. Was there anything about that experience that could influence your judgment in this case?

20. Would anybody be influenced by the sheer number of witnesses who may testify for the Government or for the defense? Does anybody think that if the defendant calls no witnesses, he/she would be unable to make a decision as to whether the Government proved the defendant guilty beyond a reasonable doubt?

21. Would any of you give greater weight or credibility no matter how slight to the testimony of a federal agent or law enforcement officer merely because they are testifying on behalf of the Government?

1. Is there anyone who believes he/she would be unable to judge the credibility of a law enforcement officer's testimony just like everyone else?
2. Is there anyone here who would tend to give a law enforcement officer's testimony greater weight or credibility, or lesser weight or credibility, just because that person is a law enforcement officer? For example, if two people have different recollections about an occurrence and one is a police officer, would you tend to believe the police officer over the civilian just because that person is a police officer?

22. Would any of you give the testimony of a Government witness greater weight or credibility over that of the testimony of witnesses on Mr. Prelogar's behalf, just because that person was testifying for the Government?

23. Do any of you believe that you would have any difficulty being asked to judge the honesty and credibility of a witness?
24. If you are selected as a juror in this case, you will be instructed later on that when considering the credibility of a witness, you can consider any biases or prejudices that the witness may have or any motives the witness may have for telling the truth or not telling the truth; do you all understand that concept? Does anybody have a problem considering that a witness may not be telling the truth even if that witness takes an oath in this courtroom and promises to tell the truth?

25. Has anybody ever been accused of a crime? (Follow up.)

26. Has anybody ever been convicted of a crime? (Follow up.)

Instructions

27. Does anybody here think that because Mr. Prelogar has been charged with a crime, he must have committed the crime?

28. Does anybody here have any opinion at all about whether Mr. Prelogar is guilty or innocent in this case before hearing the evidence?

29. Does everybody understand that Mr. Prelogar is by law presumed innocent?

30. Does anybody here feel that Mr. Prelogar must have done something illegal or he would not have been charged with a crime?

31. Does anybody here feel that, in criminal cases, the Government is usually right?

32. Does anybody here feel that the Government always tells the truth?

33. Does anybody here have any difficulty with the concept of passing judgement on another?

In other words, there are some people who for moral, ethical or religious reasons, believe that it is not proper to pass judgment on the conduct of others. Do any of you hold such beliefs?

34. If you are selected to sit on the jury in this case you will have one of twelve votes. Will you agree to independently decide whether the Government has proven Mr. Prelogar guilty beyond a reasonable doubt even if other members of the jury disagree with you?

35. Does anybody feel like defendants in a criminal trial should have to prove that they are innocent?

36. Does everybody understand that Mr. Prelogar has a constitutional right not to testify? Will anybody hold it against Mr. Prelogar if he doesn't choose to testify in this case?

37. Is there anyone here who does not understand that an indictment is not evidence that the crime charged was committed, and it may not be considered as evidence by you in deliberating?

38. Do you understand that Mr. Prelogar has pled not guilty and that he has a Constitutional right to a presumption of innocence—that is, he is innocent unless the Government is able to prove otherwise and to do so beyond a reasonable doubt.

39. Do any of you have any difficulty presuming that Mr. Prelogar, as he sits here before you, is innocent?

40. Do you all understand that the Government is required by law to prove Mr. Prelogar guilty beyond a reasonable doubt, if they are able to?

1. Is there anybody here who does not agree with that? In other words, is there anyone here who believes it is Mr. Prelogar's duty to prove himself innocent?
2. Do you all understand that "beyond a reasonable doubt" is the highest burden of proof required by the law?

41. If the Government fails to meet that high burden of proving Mr. Prelogar guilty beyond a reasonable doubt, is there anyone who does not understand that you must find Mr. Prelogar not guilty?

1. What about if the Government can produce some evidence of guilt, but not enough to leave you convinced beyond a reasonable doubt that he is guilty—are there any of you who think you would not be able to find Mr. Prelogar not guilty in that instance?
2. Is there anyone who would feel that by not returning a guilty verdict, your job as a juror is incomplete or a failure?

Taxes

42. Is there anybody who holds any strong personal or philosophical feelings about the tax system of the United States or the Internal Revenue Service? If so, what are your feelings?
43. Have you, a family member, or a close friend ever been affiliated with any group, formal or informal, that is engaged in the study of federal tax laws or federal tax policy in general?
44. Has anybody here ever been to a seminar, conference, or other event, formal or informal, where taxes were discussed. Please explain.
45. Has anybody here ever read any books, pamphlets, websites, or other materials regarding taxes or tax laws?
46. Please identify yourself if you believe that the federal tax law is not complicated.
47. Have you, a family member, or a close friend ever been trained in bookkeeping, accounting, law, or tax preparation? If so, please elaborate.
48. Have you, a family member, or a close friend, ever worked as an accountant, bookkeeper, tax return preparer, Certified Public Accountant, or Enrolled Agent? Has anybody been employed as a tax preparer or accountant? If so, please elaborate.
49. When you file your taxes, are you conservative or aggressive in your approach, and why?
50. Have you ever been audited by the IRS? If so, how long ago? Did you have to pay any additional taxes as a result of this audit? Were you treated fairly?

51. A criminal case is not a civil case. Your decision will not impact whether the IRS can collect taxes even if taxes are due. The IRS can do that through civil collection. How many understand that?

52. If somebody pays his or her taxes late, but pays them, as you sit here now without having heard anything else, do you believe that person committed a crime?

Other Relevant Areas of Inquiry

53. Does anyone think that if a person is an owner of a company and that company pays personal expenses of the owner, that automatically means the person committed a crime?

54. Does anyone think there is something wrong if an employer pays all of its workers in cash? If you hear evidence that workers were paid in cash, are you automatically going to think the person committed a crime?

55. If somebody cashes her paycheck instead of depositing it into her bank account, has she done something wrong? Just by that fact alone, are you automatically going to think the person committed a crime?

56. You're going to hear a term in this case called "structuring." Does anybody know what that means in the financial context?

57. Has anyone ever worked in a bank? (Follow up.)

58. Is there anyone here who thinks there's something wrong with not having a bank account at any given time?

59. Has anyone ever heard the term Trust Fund Recovery Penalty (TFRP)? (Follow up if affirmative responses.)

60. There are some who may say that Mr. Prelogar looks unusual? Is there anybody here who walked in the courtroom, saw Mr. Prelogar, and had any reaction of any kind based on his appearance alone?

61. Does anybody here ride a motorcycle?
62. Has anybody watched professional wrestling, MMA, cage fights, or participated in such a sport?
63. Does anybody have any body piercings (not including earrings) or tattoos? Does anybody here have an aversion to body piercings or tattoos?
64. Has anybody here ever played in a band or been a performance artist?
65. Has anyone on the panel ever owned a business? (Follow up.)
66. Has anyone ever served in management at a business? (Follow up.)
67. You may hear evidence in this case that, at various times, Mr. Prelogar owned some real estate properties, a boat, and an airplane. Based on that fact alone, will anybody have trouble hearing this case and judging this case based on the evidence and the law the judge gives you?
68. Has anybody ever been accused of something you did not do?

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**Certificate of Service**

I hereby certify that I filed the foregoing through the Court's CM/ECF system which will provide notice of filing to all counsel of record.

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